

U.S. Pat. Appl. Ser. No. 09/873,444
Attorney Docket No. 10191/1847
Reply to Final Office Action of May 20, 2004

REMARKS

Claims 1 to 10 are pending and being considered in the present application. It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claims 1 to 7 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,373,472 ("Palalau"). Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(e), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)). To the extent the anticipation rejection is based on the inherence doctrine, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'l. 1990)).

Claim 1, recites "making available a predetermined number of *operator controls assigned to respective operating functions of a first device type; assigning* respective operating functions of *each further type of device to the operator controls; and selecting a device type to be controlled by the operator controls among various device types, the operating functions of the operator controls being changed corresponding to the selection.*" Claim 5, recites "a switching device for *switching application of the control system among various device types to be controlled*, wherein *operating functions of the*

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plurality of operator controls are changed corresponding to a selected device type to be controlled.” Applicants emphasize that the invention recited in claims 1 and 5 provides a control system of a set of operator control elements, *which set of operator control elements* may be applied to *a selected device type* chosen among many different device types to be controlled, i.e., *the same set of operator control elements* perform a *completely different set of functions* depending on *the type of device that has been selected* for control. For example, the set of five control buttons shown in Fig. 5 of the present application perform one set of functions for “traffic information” mode, and the same set of five control buttons perform a completely different set of functions for “telephone” mode as shown in Fig. 6. In contrast, the Palalau reference clearly does not teach or suggest the above-recited features of claims 1 and 5.

In support of the rejection, the Examiner states that Palalau teaches “selecting a device type (see switching 28) to be controlled by the operator controls among various device types (audio, climate, navigation . . . , because the switch 28 can select audio, climate or navigation) the operating functions (fig. 9b) of the operator controls being changed corresponding to the selection (see figures 9a-9b).” (Office Action, pp. 2-3). Furthermore, in the “Response to Arguments” section of the Office Action, the Examiner states that the claimed feature of “selecting a device type to be controlled by the operator controls among various device types, operating functions of the operator controls being changed corresponding to the selection” is satisfied because “Palau et al. disclose a selecting (28) controlled by operator controls (30) among various device types (28a-28f or audio, climate . . .).” Applicants will address these contentions in detail below.

Regarding the Examiner first contention relying on the combination of switch 28 and Figs. 9a and 9b of Palalau, Applicants note that the switches 28a-28f are fixed-function switches, i.e., *the function of each button doesn’t change depending on the selected device type, particularly since each button merely designates a device type.* While column 3, lines 48-55 of Palalau indicate that the “functions of each of the feature group switches 28 . . .

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change to be personalized for each operator and change as appropriate based upon the user's previous selections . . . ,” it is clear that each of the switches 28a - 28f controls one type of device, e.g., it is quite clear that switch 28a is limited solely to audio control, and switch 28b controls climate, etc. Furthermore, to the extent the Examiner relies on Fig. 9a of Palalau, “the center touch screen 32 is shown displaying *graphic representation 100a-f of the feature group switches 28a-f.*” (Col. 6, l. 7-9). Upon “activating the audio feature group switch 100a on center touch screen 32, center touch screen 32 is reconfigured as shown in Fig. 9b,” which would include volume, balance, tuning and CD control buttons. (Col. 6, l. 17-24). Accordingly, while the configuration of the touch screen 32 is dependent on the particular switch selected amongst switches 100a-100e, it is quite clear that only one touch screen configuration is provided for each “device” type selected, e.g., audio 100a, and there is absolutely no suggestion that *the same touch screen configuration would be provided for two different types of “devices” selected* (e.g., audio and climate), let alone that the control “buttons” (e.g., 102d “play”) shown on touch screen 32 would have *different functions for different “device” types* (e.g., button 102d is “play” for audio operation 100a, and button 102d is “cool” for climate operation 100b).

Accordingly, the Palalau reference does not identically disclose (or even suggest) the feature of “making available a predetermined number of *operator controls assigned to respective operating functions of a first device type; assigning* respective operating functions of *each further type of device to the operator controls; and selecting a device type to be controlled by the operator controls among various device types, the operating functions of the operator controls being changed corresponding to the selection,*” as recited in claim 1, or the feature of “a switching device for *switching application of the control system among various device types to be controlled*, wherein *operating functions of the plurality of operator controls are changed corresponding to a selected device type to be controlled,*” as recited in claim 5. For the foregoing reasons, the Palalau reference does not anticipate the subject matter of claims 1 and 5. Claims 2 to 4 depend from claim 1, and are therefore allowable for the same reasons as claim 1. Claims 6 and 7 depend from claim 5, and are

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therefore allowable for the same reasons as claim 5. It is therefore respectfully submitted that the rejections of claims 1 to 7 should be withdrawn.

Claims 8 to 10 were rejected under 35 U.S.C. § 103(a) as being obvious over the Palalau reference in view of U.S. Patent No. 6,686,911 ("Levin").

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), not only must the prior art **teach or suggest each element of the claim**, but the prior art must also **suggest combining the elements in the manner contemplated by the claim**. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990).

Claims 8 to 10 ultimately depend from allowable claim 5. Furthermore, Applicants note that Levin clearly does not cure the critical deficiencies of Palalau as applied against parent claim 5. Accordingly, without passing judgment on the merits of the Examiner's assertions regarding the combination of the teachings of Palalau and Levin, Applicants respectfully submit that claims 8 to 10 are allowable over the combination of Palalau and Levin for essentially the same reasons as those explained above in connection with claim 5. It is therefore respectfully submitted that the rejection of claims 8 to 10 should be withdrawn.

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Conclusion

In view of the above, it is respectfully submitted that claims 1 to 10 are in allowable condition. An early and favorable action on the merits is therefore respectfully requested.

Respectfully submitted,

Dated: 9/24/04

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Attorney Docket No. 10191/1847

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Helmar-Steffen GEHRKE et al.
Serial No. : 09/873,444
Filed : June 4, 2001
For : METHOD FOR ALLOCATING OPERATOR CONTROL
FUNCTIONS TO OPERATOR-COMMUNICATION CONTROLS
OF AN ELECTRONIC DEVICE WHICH IS ABLE TO EXECUTE
THE FUNCTIONS OF A PLURALITY OF ELECTRONIC
DEVICES AS SWITCHABLE FUNCTIONS, ESPECIALLY
DEVICES IN MOTOR VEHICLE LUXURY FEATURE
ELECTRONICS, AND THE CORRESPONDING DEVICE
Examiner : Kimnhung T. Nguyen
Art Unit : 2674
Confirmation No. : 4385
Customer No. : 26646

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22313-1450 on:

Date: September 24, 2004

Signature:

Jong H. Lee (Reg. No. 36,197)

**RULE 116 RESPONSE TRANSMITTAL
AND REQUEST FOR EXTENSION OF TIME**

SIR:

Transmitted herewith for filing in the above-identified patent application is a Rule
116 Response After Final Office Action.

This is also a Petition Under 37 C.F.R. § 1.136(a) to extend the three-month
response date by two months from May 20, 2004 to October 20, 2004.

The Commissioner is authorized to charge the appropriate fee, which is believed to
be **\$420.00** for the two-month extension, to Kenyon & Kenyon Deposit Account No. **11-0600**, and
is also authorized, as appropriate and/or necessary, to charge any additional fees or credit any
overpayment to Kenyon & Kenyon Deposit Account No. **11-0600**. A duplicate copy of this
transmittal letter is enclosed for these purposes.

Respectfully submitted,

Dated: September 24, 2004

By:

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